

**MINUTES OF COMMISSION COMBINED WORKING SESSION AND REGULAR
SESSION MEETING HELD AUGUST 06, 2012, BEGINNING AT 1:00 P.M. IN
COMMISSION CHAMBERS, IN DUCHESNE, UTAH**

Present

Commission Chairman Kirk J. Wood, Commissioner Ronald Winterton, Commissioner Kent R. Peatross, Deputy County Attorney Marea Doherty, Clerk Auditor Diane Freston, John Swasey, Kathryn Larsen, Ryan Chapman, and Commission Assistant BobbiJo Casper taking minutes of the meeting.

Opening Comments

Uintah Basin Standard Reporter Steve Puro joined the meeting at 1:04 P.M...

Assistant Casper offered the prayer. There were no other comments.

Consideration Of Payment Vouchers

The commission reviewed vouchers #122291 through #122352 dated August 06, 2012, in the amount of one hundred forty one thousand one hundred sixty dollars and sixty two cents (\$141,160.62) as presented by Auditor Freston. *Commissioner Winterton motioned to approve the vouchers as presented. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Tax Adjustments – Assessor

The commission reviewed the attached tax adjustments. *Commissioner Peatross motioned to approve the tax adjustments as recommended by the Assessor's Office. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Mountains West Storage Solutions LLC

Deputy Clerk Auditor Connie Sweat joined the meeting at 1:06 P.M...

Deputy Clerk Sweat stated that this is a storage unit facility in Fruitland. This application has been approved by the Planning and Zoning Department and the Building Department. *Commissioner Winterton motioned to approve the business license application as presented. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Cooperative Agreement With UDOT For Weed Control

Commissioner Peatross stated that this is an ongoing agreement that we renew annually with UDOT to spray right-of-ways. We have this agreement because so many of the spraying of the weeds is a timing issue and our Weed Department will spray when it's most effective to kill the weeds. It is in the amount of seven thousand dollars (\$7,000) which covers the cost of the chemicals, time, and equipment costs. This has worked out very well, they do a good job. *Commissioner Peatross motioned to approve the renewal of the agreement with UDOT for weed control in Duchesne County along state highways. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of The 2012 Duchesne County Fair Volunteer List

Commissioner Peatross stated that this is the final list of volunteers for the fair that is taking place all week long. We have approved several lists the past few weeks and have over one hundred volunteers. We are approving them for their time and effort in assisting at the fair so that they are covered under our liability insurance and we feel this is a win-win for all of them and the county. Chairman Wood stated that it speaks well for the county and the volunteerism that takes place; the county fair brings out the best in our citizens. We appreciate all of the volunteers for the great job that they do in the county. *Commissioner Peatross motioned to approve the additional volunteer list for the 2012 Duchesne County Fair as provided. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of Ordinance No. 12-303, An Ordinance Adopting The Requirement Of Electronic File Retention For Duchesne County

GIS Director Stoney Monks joined the meeting at 1:19 P.M... Assessor Greg Garff & Public Works Director Glen Murphy joined the meeting at 1:23 P.M...

Attorney Doherty stated that this is an ordinance making an additional requirement to

the current county code that covers GRAMA. GRAMA is the Government Records Access and Management Act. This proposed ordinance requires Duchesne County records to be retained in an electronic file format and or some form of digital imaging. The ordinance specifically speaks to the fact that the responsibility is for maintaining the records, security of the records, and access to the public of records that are deemed to be public records. These are shared responsibilities between the legislative body that is the County Commissioners, as well as each and every county office, elected official, and or department head. The substance of this ordinance is to require documents be maintained in an electronic format. It does not impinge or otherwise impede the authority of a county office, elected official or department head to make the determination on how to run and supervise their offices, so long as they are in compliance with this ordinance. It is reflective of the digital age that we are in. It is her recommendation that the commission review and adopt it. The only timeline that is designated in the ordinance is the timeline that is required by the State of Utah Archives Department. Their function is to assist the county in fulfilling their responsibilities to maintain their records. Perhaps there should be a timeline based on the fact that there will be a requirement that every office work with the IT Department in the implementation of Fortis. The IT Department is going to be at the head for this project. As the process is underway, we could then make a determination of the timing. The County Commission has made the determination that in order to access and preserve county records, they are adding an additional requirement for electronic file formatting. Commissioner Winterton stated that the only thing that he would like to add to the ordinance is a timeline. He would like to set for a date such as the first of the year. Attorney Doherty stated that once it is implemented, it will give us a better idea of the time frame and the enormity of the task. In the long term, it is for the betterment of the county. Commissioner Winterton stated that this task will stream line everything that we are doing in the county. Each department will have access in a timely manner on things that are happening. Director Monks stated that as we talk about the time frame, there are two parts to it; everything that is currently being done, and everything that has been done. He thinks that there needs to be a time frame for when each office is going to start scanning everything that is available now, and then start scanning the historical documents. Attorney Doherty stated that it may be appropriate to identify the two time frames in the ordinance. There hasn't been any feedback from the other offices. *Commissioner Peatross motioned to postpone the ordinance for a week to let it circulate throughout the offices to get feedback and so we can drill down on it ourselves. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.*

Public Hearing- 1:30 P.M...

County/Community Planning Administrator Mike Hyde, Clinton Moon, Mark Murray, Beth Morris, T. Morris, Ryan Snow, Brandon Pack, Todd Bro, Allen Rydman, Susan Rydman, & John Beck joined the meeting at 1:30 P.M...

Consideration Of The Final Plat Of The August Meadows Subdivision

Administrator Hyde stated that the August Meadows subdivision is located on the east side of 3000 West at 2340 North in the Roosevelt area. This is North of Hancock Cove. Roger Chapman purchased the land a few years ago from the Division of Wildlife Resources. This is Phase I of II phases with sixteen lots just over 2.5 acres in size. They received the preliminary plat approval almost two years ago. They recently finished paving the roads and getting the subdivision ready for final plat approval. There is a two year limit in which to obtain final plat approval and so they are barely squeaking by. On August 1, 2012, the Planning Commission held a public hearing and has recommended your approval of the final plat provided that the final plat shall both be signed and recorded until the following items are submitted to the Community Development Director:

- a. Title Report. (Any easements listed on the title report and not showing on the final plat must be added).
- b. Public Offering Statement.
- c. Protective Covenants.
- d. Operating Permit for the water system from the Utah Division of Drinking Water.
- e. Letter from the Road Department accepting the roads for county maintenance.
- f. Documents associated with the relocation of the irrigation line and the entity that will operate the irrigation system.

This will tap into the eight inch existing service line with Roosevelt City, but they have an agreement with the Cedarview Montwell Special Service District to tap into that. The only comment received is from Art Taylor who owns a parcel across the street from this

subdivision and is in favor of it.

Mr. Chapman representing A&R Development stated that this project took longer than anticipated due to the water issue with Cedarview Montwell Special Service District. This is a part of the districts Phase I plan. We are about thirty days from getting the street signs in. We haven't sold any lots yet, we are waiting for approval from the Commission.

Director Murphy stated that he was at the subdivision a few weeks ago and hasn't approved it yet because the street signs haven't been put up yet, but they are close to getting it done. The roads are paved and the county will maintain it.

As there was no additional testimony, the public hearing on the August Meadows final plat was closed.

Consideration Of Ordinance No. 12-302, An Ordinance Amending Title 8, The Duchesne County Zoning Ordinance

Administrator Hyde stated that the Planning Commission has been wrestling with a few items the past few months. We get a lot of complaints about gravel pits especially because of the dust during dry years like we have now. The Planning Commission has been looking at ways to reduce impacts of dust and noise. This ordinance attempts to do that. Land Farms are properties where contaminated soils, sediments, or sludge from the oil field are brought in and treated to get the hydrocarbons out of the soil so it can be reused. These are regulated by DOGM.

Administrator Hyde stated that concerning livestock, there is occasionally too many livestock kept in too small of parcels. We in the past have tried to get people to reduce the number of livestock to reduce the smell. Right now, we rely on the nuisance ordinance to address the concerns and haven't had much luck with the prosecuting attorney's office taking such cases, so we are thinking of adopting Uintah County's livestock regulations for Duchesne County. A one size fits all approach was discussed; however, since then, we have removed the livestock provisions from the ordinance. Right now we are only dealing with gravel pit and land farm regulations. On gravel pits, we had some representatives who suggested changes and those have been done. Right now we don't regulate land farms at all, so this is all new proposed code. There are seven standards in this section of the ordinance to abide by. All existing facilities will be grandfathered in.

Chairman Wood asked Administrator Hyde how high the fence would have to be?

Administrator Hyde replied that the ordinance does not specify height. He doesn't feel that it's as much as a concern as with evaporation ponds to keep wildlife out.

Chairman Wood asked why we would tack on the 125% bond.

Administrator Hyde stated that it gives a cushion for inflation where the bond is in place for five years.

Commissioner Peatross asked about the setback.

Administrator Hyde stated that the setback proposal is a compromise. It would cause the setback to differ depending on where the nearest home is. There is less flexibility for the land farm operator, but more protection for the homeowner.

Mr. Allen Rydman stated that he lives in the middle of Duchesne County two miles in on Caravan Lane. He has been surrounded by oil production and dust is on both sides of the road. On land farms and waste water, he would like to see it changed to read no such facility in the future would be approved within six miles of a Duchesne County approved subdivision or property that has been established. He came in last year and complained of odor and wants the setback distance a number of miles away.

Mr. Clinton Moon stated that he platted a subdivision just outside of Duchesne past the sewage lagoons and has received lots of comments asking why one would build there. Sometimes the wind blows through Duchesne and you can smell them too, but he has

never smelled it down on his farm. He has never heard of a complaint. It is interesting that people in Bountiful comment of smelling the salt brine off of the Great Salt Lake that smells worse than the sewage ponds. No matter where you're at, you're going to have conflicts with people. He would be weary of putting boundaries on things. A lot of the times you have prevailing winds, and get caught up in where we live and don't want to smell but yet, sometimes the whole Wasatch front gets the brine smell.

Mr. Mark Murray stated that there is a difference between water disposals and land farms. There are smells from disposal ponds at times but he would like to invite you to visit a land farm to see if they are the same because they're not. Administrator Hyde stated that the primary reason for the proposed ordinance is to regulate where they can be located, but if you read the regulation there is a lot more to it than zoning. Fencing is a part of DOGM's requirement. We are always concerned about property owners, but what about the business owners? He thinks that businesses should be on the notification list along with the landowners. This is a request for future things. On the fence, he doesn't feel that a fence is required by DOGM to be eight foot. Also the bond concerns him. Farmers are not required to get a bond, the rational part of this he doesn't understand. He feels that the bond should be 0% because it's a farm operation. You are turning it into a type of business that it's not. Why is the additional bonding required for additional improvements on their property?

Mr. John Swasey asked why we have to have this at all if we already have the DOGM handing out permits. Why does the county have to jump in and start taking away rights of private property owners to do what they want with their property? You talk about odor, when I drain the pond at my house it makes my neighbors run for cover. We get more and more regulations and more and more freedoms taken away. More and more times that the county has to adopt something another county did or something that the State of Utah suggested or something that the feds want to do. His opinion is that we put a halt to it and let the attorneys take care of it when they need to.

Mrs. Larsen stated that across the street from her in the residential area is an oil rig. We were never notified of this and we now have to deal with the noise and pollution. There are trucks in and out at all hours of the night. With all of the different regulations, what are the rights of property owner's compared to the rights of business owners in Duchesne County.

Mr. Chapman, representing RNI, stated that land farms are regulated heavily by DOGM. The fencing requirement is standard fencing for livestock and DWR comes out and inspects the fences regularly. The smell of a land farm is not that great, it is very minimal and it doesn't sit there it is taken care of daily. The DOGM bonding requirement is quite large and it would adequately cover what is there and he feels that adding a county bond would be redundant.

Commissioner Peatross asked if this was going in next door to Mr. Chapman would you have any concerns.

Mr. Chapman stated that he wouldn't have a concern as it's essentially putting in fresh dirt and disking it up continuously because the requirement from DOGM is that for every yard of contaminated material you have one hundred yards of soil mixed into it so it's very minimal. If it was an evaporation pond, he would have a larger concern. We use all of the soil onsite, we don't haul anything off.

Mr. Monks stated that a few years ago, he went through this issue with El Paso who had a wastewater disposal pit that they land farmed. We had a few issues with the smell and my son was asthmatic, which caused problems for him. They also had a plant that put glycol in the air. The important thing is to have the businesses and the people who put these in work with property owners nearby. He agrees with Mr. Swasey and feels that every day we get more and more regulations and it's harder to do things as a business owner, but more importantly it's getting the business owners to cooperate with the surrounding property owners to minimize the noise and the smell. El Paso brought someone out to monitor the land farm and we were very pleased how they did things and listened to our concerns. If everyone did this, it would solve a lot of problems.

Mr. Snow stated that with gravel pits, he thinks we are okay with how the ordinance is now written. We made a lot of progress from the last hearing.

Commissioner Peatross stated that he and Administrator Hyde looked at existing gravel pits and plotted it out in several situations and this seems like a good fit.

Chairman Wood stated that hopefully the comments help get to a point where we can all get what we can live with.

Commissioner Peatross stated that he has sat through a few presentations regarding land farms and everything that he has learned falls in line with what Mr. Chapman has said as far as the difference between them and evaporation ponds. Land farms can be managed a lot better, the only consideration he has is what was mentioned by Mr. Monks. He is not in favor of trying to legislate good behavior. It's impossible to do because all of the good guys are going to suffer and the bad guys are going to continue getting away with whatever they want. If we could figure out a way that we could make sure that operators do step up and deal with issues like Mr. Monks talked about then that's where we need to go, but he is not sure how we do that. He doesn't feel that it's been accomplished in what has been presented here. He would like to relook at the land farm issue and doesn't feel comfortable with the setbacks and the proposals. He would like to reevaluate and get a better feeling for what DOGM is requiring on reclamation. It does seem that reclamation is a property owner issue.

Commissioner Winterton stated that he feels that if DOGM is already requiring a bond that we don't need to go above that.

Administrator Hyde stated that what he is hearing today is that you are uncomfortable with land farm regulations. What we could do is strike the entire section on land farms and come back at a later date if you want to and pass what is needed on gravel pit regulations.

Mr. Rydman stated that the public is not aware of what is happening until they see the dust. The regulations are there to protect us and to protect ourselves from infringing on each other.

Mrs. Morris stated that she is a land owner and has severe respiratory problems, but without these businesses that we are trying to regulate, she couldn't live here. The county wouldn't be able to survive without the construction and oil field there wouldn't be any jobs so we would all have to leave. They do make pollutants but she can still live here and drive by the pits without any problems. If there is a smell, they get taken care of immediately. If she goes to the city, she can only stay for a few hours because of the pollution, she has a hard time breathing. Without these companies none of us could survive. All of the businesses owners live here and have investments here and have families here; they are not fly by night companies.

-Entered back into Regular Commission Meeting at 2:27 P.M...

Commissioner Peatross motioned to adopt the findings and fact of conclusions of law of the Planning Commission as our findings and conclusions and approve the final plat of the August Meadow Subdivision, subject to the conditions recommended by the Planning Commission. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.

ORDINANCE NO. 12-302

AN ORDINANCE AMENDING TITLE 8, THE DUCHESNE COUNTY ZONING ORDINANCE

WHEREAS, energy development in Duchesne County has created the need for numerous gravel pits and rock crushers to supply rock for well pads and access roads; and

WHEREAS, siting and operation of gravel pits and rock crushers often leads to conflicts with residential uses, such as noise, dust and heavy truck traffic; and

WHEREAS, the Duchesne County Planning Commission has conducted a public hearing regarding these proposed amendments and has recommended approval.

BE IT HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS that:

SECTION 1. Section 8-13-5-2 of Title 8: EXTRACTION OF EARTH PRODUCTS is amended as follows:

- A. Dust Free Condition: Must be maintained in a near dust free condition. A dust control plan shall be provided by the applicant to the county, the Tri-County health department and the state DEQ that contains an inventory of dust control equipment and procedures that will be utilized at the site and a documented source of adequate water. Rock crushers shall have a DEQ air quality permit in effect during operation, with a copy of such permit provided to the county, unless the crusher is considered exempt from permit requirements by the Utah DEQ. Watering or applying chemical treatments to the site and street active pit areas and driving surfaces ~~during times of operation~~ is considered maintaining a near dust free condition;
- B. Bond Required: A bond shall be issued in the amount of five thousand dollars (\$5,000.00) for the first acre, and three thousand dollars (\$3,000.00) for each additional acre from which such material is taken as a guarantee of reconditioning. The number of acres must be specified on the conditional use permit and cannot be enlarged or modified until the issue is re-presented to the planning commission for a new conditional use permit and the enlargement or modification is approved. This bonding requirement may be waived in writing by the property owner but such waiver does not waive the reconditioning requirements;
- C. Reconditioning: Reconditioning, in a manner agreed to by the county, the property owner and the applicant, to assure the surrounding property is protected along with the beauty of the landscape. Guidelines known as the "Material Pit Finishing Standards" on file at the county planning department are suggested for use in reclamation planning;
- D. Distance Requirement for Gravel Pits and Rock Crushing Operations: Rock crushing operations must be a minimum of one thousand three hundred twenty feet (1,320') from any city, town or residential use, measured from the center of the crusher location. In addition, the gravel pit boundary shall be set back 660 feet from the edge of the proposed disturbed area to the closest city or town boundary line, the closest point of a residential, educational, public, religious or commercial structure or the closest point on the boundary of an enclosed area of a concentrated livestock facility. In addition, the proposed disturbed area or gravel pit boundary shall be set back at least 50 feet from a property line. The setback requirements may be waived in writing by the owner(s) of land within the setback area if such owner(s) consent to a lesser distance. These setback requirements do not apply to land uses owned and occupied by the owner(s) of the same parcel on which the extraction of earth products would occur.

SECTION 2. Severability.

If any court of competent jurisdiction declares any Section of this Ordinance invalid, such decision shall be deemed to apply to that Section only, and shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared invalid.

SECTION 3. Effective Date. *This ordinance shall become effective fifteen (15) days after publication.*

DATED this 6th day of August, 2012.

ATTEST:

DUCHESNE COUNTY
BOARD OF COMMISSIONERS

Diane Freston

Kirk J. Wood, Chairman

Ronald Winterton, Member

Kent R. Peatross, Member

Commissioner Winterton motioned to adopt Ordinance No. 12-302 dealing with gravel pits in section three striking proposed sections one, two, and four. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Minutes For Regular Commission Meeting Held July 23, 2012

Commissioner Peatross motioned to approve the minutes as corrected. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Minutes For Combined Commission Meeting Held July 30, 2012

Commissioner Peatross motioned to approve the minutes as corrected. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.

Closed Meeting -

Commissioner Peatross motioned to go in and out of a closed meeting to discuss pending or reasonably imminent litigation issues at 2:53 P.M. Commissioner Winterton seconded the motion. All commissioners voted aye and the motion passed.

-Entered back into Combined Commission Meeting at 3:11P.M...

Commissioner Winterton motioned to go in and out of a closed meeting to discuss personnel issues at 3:16 P.M. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.

-Entered back into Combined Commission Meeting at 3:35P.M...

Commission Calendaring

Adjourn

Chairman Wood adjourned the meeting at 3:39 P.M...

Read and approved this 20th day of August 2012.

Kirk J. Wood

Commission Chairman

Diane Freston

Clerk/Auditor

*Minutes of meeting prepared by BobbiJo Casper*_____